IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

**WRIT PETITION NO.4684 OF 1995**

Smt.Shashikala Dilip Gaikwad )
R/o.Igatpuri, Tal.: Igatpuri )
District : Nashik. ).. PETITIONER

Versus

1) The Chairman )
Maharashtra Nomadic Tribes and )
Vimukta Jati Sangh )
At & Post : Igatpuri through its )
Chairman, R/o.19, Ramniwas )
14th Lane, Kamathipura )
Bombay 400 008. )

2) District Social Welfare Officer )
Nashik District. )

3) Director, Social Welfare )
Maharashtra State, Pune. )

4) State of Maharashtra )
through its Secretary, Department )
of Education, Mantralaya )
Bombay 400 032. )

5) Shri A.A. Lad, Member, )
School Tribunal, Nashik Region )
Nashik. ).. RESPONDENTS

Ms.Seema Sarnaik for the Petitioner.

None present for the Respondents.

**CORAM: SMT.NISHITA MHATRE, J.**

**DATED: 8TH JULY 2005**

**ORAL JUDGMENT :**

. The Petitioner was employed in the school run by the first Respondent. She was employed in the Ashram Shala as an Additional Cook. Her appointment was on

probation and after the probationary period was over, she was confirmed on 23rd July 1987. The necessary approval was obtained for her appointment from the District Social Welfare office. The Petitioner continued to work with the first Respondent. She was terminated from service on 31st March 1992. No reasons were assigned for terminating her services. Aggrieved by this action of the first Respondent, she approached the School Tribunal under Section 9 of the Maharashtra Employees of Private School Act, 1977. The School Tribunal decided the Appeal on 25th April 1995. The Tribunal condoned the delay in filing the Appeal. The Petitioner was reinstated in service with continuity of service. However, her prayer for back wages was rejected.

2. There is no dispute that the Petitioner was reinstated pursuant to the orders of the School Tribunal. The only issue which is contended before me is that the claim for back wages has been negated without any reason by the School Tribunal.

3. A perusal of the order of the School Tribunal, indicates that besides clause 4 of the operative portion of the order stating that the prayer of the Petitioner for back wages was rejected, there is no discussion whatsoever on the issue regarding back wages in the

judgment. Once reinstatement is granted to the Petitioner, it was a necessary concomitant that she ought to have been awarded the back wages since it was found that her services had been terminated illegally. When there is no discussion regarding back wages, it is difficult to decide why the back wages were denied to the Petitioner. Salary paid to the Petitioner at the time of termination of her service ought to have been paid to her and all increments thereafter as back wages. There is no affidavit filed in these proceedings denying the claim of back wages. In these circumstances, I find that the order of the School Tribunal negating the claim of the Petitioner regarding back wages must be set aside. The Petitioner is entitled to back wages from the date her services were terminated i.e. from 31st March 1992 till she is reinstated in service in 1995 as per the order of the School Tribunal.

4. Writ Petition allowed. Rule made absolute in terms of prayer clauses (b) and (c) of the Petition.